

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 99-0075P
Sales and Use Tax
Calendar Years 1995, 1996, and 1997

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer was audited for calendar years 1995, 1996, and 1997. Upon audit it was discovered that the taxpayer failed to self assess use tax on clearly taxable items, issues that were present in a prior audit completed on February 10, 1994. The prior audit waived taxpayer's penalty and advised the taxpayer to begin self-assessing use tax.

Taxpayer, in a letter dated January 29, 1999 protested the penalty assessed and states it acted in good faith in the follow through from the previous audit issues and in the attempt to properly pay the sales tax during the current audit period.

I. **Tax Administration** – Penalty

DISCUSSION

At issue is whether the taxpayer was negligent when it failed to remit sales and use tax due.

Taxpayer states most of the errors discovered in the prior sales tax audit were corrected and the proper sales tax was paid during the recent audit years for those items. The additional sales tax resulted from a few new issues that were not interpreted properly.

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The audit, however, indicates the taxpayer failed in self assessing use tax for similar items assessed in the prior audit and had no use tax accrual system in place. The sales tax due was minimal compared to the use tax.

Taxpayer has not provided reasonable cause to allow the department to waive the penalty.

FINDING

The taxpayer's protest is denied.